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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

Conservatorship of the Person and  
Estate of JESSIE ALLEN.

B209704

(Los Angeles County  
Super. Ct. No. TP002547)

GEARLEAN WILLIAMS,

Petitioner and Appellant,

v.

BOBBY PEREZ,

Objector and Respondent.

APPEAL from a judgment of the Superior Court for Los Angeles County,  
Josh M. Fredricks, Judge. Affirmed.

Gearlean Williams, in propria persona, for Plaintiff and Appellant.

No appearance for Objector and Respondent.

Gearlean Williams appeals from an order denying with prejudice her petition  
to be appointed conservator over the person and estate of Jessie Allen. The record

on appeal is sparse. It includes two minute orders, the notice of appeal and designation of the record, and the reporter's transcript for the hearing at which the petition at issue was denied.<sup>1</sup> The petition at issue in this appeal is not included in the record. As far as we can determine, Ms. Williams filed a series of petitions seeking to be appointed conservator over the person and estate of Mr. Allen, each of which was denied. The fourth petition -- the one at issue in this appeal -- was denied with prejudice.

According to Ms. Williams' opening brief, Mr. Allen is an 87 year old paraplegic with no living family. Ms. Williams met him in 1984, and provided daily care for him. She claims that she filed the petition at issue because Mr. Allen asked her to get a letter of conservatorship to allow her to take responsibility over his estate and personal needs. She also asserts that Mr. Allen is being abused at the nursing home at which he now resides. She contends the probate court was wrong to deny her petition.

Based upon the limited record we have before us, we find no reversible error. (*Rossiter v. Benoit* (1979) 88 Cal.App.3d 706, 712 ["Error is never presumed. It is incumbent on the [appellant] to make it affirmatively appear that error was committed by the trial court"].) At the hearing on Ms. Williams' petition, counsel for the Office of Public Guardian (which had been ordered by the probate court to investigate the matter) appeared and asked the court to dismiss the petition with prejudice. Counsel based that request on the Public Guardian's report, which had been filed with the court. Apparently, that report stated that Mr. Allen had repeatedly told the Public Guardian he did not need or want a conservator, and that the assistant business manager for the nursing home said that

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<sup>1</sup> Ms. Williams, who appears in propria persona, included in her appellant's opening brief a copy of the petition she filed in the same matter on February 23, 2004. It appears that that petition was denied on August 25, 2004.

Mr. Allen was fine and did not need a conservator. Counsel also noted that the Probate Volunteer Panel (PVP) attorney who had been appointed to represent Mr. Allen told her that she did not believe that Mr. Allen needed a conservator.

The Public Guardian's report is not part of the record on appeal, but we presume that it supports the statements made by counsel at the hearing. Therefore, we find no error by the probate court in denying Ms. Williams' petition. (See *Denham v. Superior Court* (1970) 2 Cal.3d 557, 564 [“A judgment or order of the lower court is *presumed correct*. All intendments and presumptions are indulged to support it on matters as to which the record is silent, and error must be affirmatively shown. This is not only a general principle of appellate practice but an ingredient of the constitutional doctrine of reversible error”].)

### **DISPOSITION**

The order denying the petition with prejudice is affirmed.

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WILLHITE, Acting P. J.

We concur:

MANELLA, J.

SUZUKAWA, J.